



UNITED STATES PATENT AND TRADEMARK OFFICE

DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES
BOX INTERFERENCE, WASHINGTON, D.C. 20231

Filed by: Sally C. Medley
Telephone: (571) 272-9797
Facsimile: (571) 273-0042

MAILED

SEP 28 2006

PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES

Patentees: Britto et al.
Application No.: 09/506,838
Filed: 02/18/00, now U.S. Patent
6,511,653, issued 01/28/03
For: Metered Dose Inhaler for
Beclomethasone Dipropionate

The above-identified application or patent has been forwarded to the Board of Patent Appeals and Interferences because it is adjudged to interfere with another application or patent. An interference has been declared. The interference is designated as No. 105,482.

Notice is hereby given the parties of the requirement of the law for filing in the Patent and Trademark Office a copy of any agreement "in connection with or in contemplation of the termination of the interference." 35 U.S.C. § 135(c).

/ss/ Sally C. Medley
SALLY C. MEDLEY
Administrative Patent Judge

Mail Stop Interference
P.O. Box 1450
Alexandria Va 22313-1450
Tel: 571-272-9797
Fax: 571-273-0042

Filed 28 September 2006

UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

IAN C. ASHURST, IGNATIUS LOY BRITTO,
CRAIG STEVEN HERMAN, LI LI-BOVET, and
MICHAEL THOMAS RIEBE

Junior Party

(Patent 6,532,955, 6,511,652, 6,511,653, and 6,546,928),

v.

MAILED

FRANCOIS BRUGGER and ANGELIKA STAMPF
Senior Party

SEP 28 2006

(Application 10/424,633).

Patent Interference No. 105,482 (SCM)

(Technology Center 1600)

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BOARD OF PATENT APPEALS
AND INTERFERENCES

DECLARATION - Bd.R. 203(b)¹

Part A. Declaration of interference

An interference is declared (35 U.S.C. 135(a)) between the above-identified parties.

Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. § 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 **Part B. Judge managing the interference**

2 Administrative Patent Judge Sally Medley has been designated to manage the
3 interference. Bd. R. 104(a).

4 **Part C. Standing order**

5 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this DECLARATION.
6 The STANDING ORDER applies to this interference.

7 **Part D. Initial conference call**

8 A telephone conference call to discuss the interference is set for **2:00 p.m. on 28**
9 **November 2006** (the Board will initiate the call).

10 No later than **four business days** prior to the conference call, each party shall file and
11 serve (SO §§ 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204; SO §§ 104.2.1, 120
12 & 204) the party intends to file.

13 A sample schedule for taking action during the motion phase appears as Form 2 in the
14 STANDING ORDER. Counsel are encouraged to discuss the schedule prior to the conference
15 call and to agree on dates for taking action. A typical motion period lasts approximately eight (8)
16 months. Counsel should be prepared to justify any request for a shorter or longer period.

17 **Part E. Identification and order of the parties**

18 Junior Party

19 Named inventors: **IAN C. ASHURST**, Ware, United Kingdom
20 **IGNATIUS LOY BRITTO**, Cary, North Carolina
21 **CRAIG STEVEN HERMAN**, Raleigh, North Carolina
22 **LI LI-BOVET**, Chapel Hill, North Carolina
23 **MICHAEL THOMAS RIEBE**, Raleigh, North Carolina
24

Involved Patents: 6,532,955, granted 18 March 2003, based on application
09/570,789, filed 15 May 2000
6,546,928, granted 15 April 2003, based on application
09/570,725, filed 15 May 2000
6,511,653, granted 28 January 2003, based on application
09/506,838, filed 18 February 2000
6,511,652, granted 28 January 2003, based on application
09/506,834, filed 18 February 2000

Title: Metered dose inhaler for albuterol

Assignee: SmithKline Beecham Corporation

Senior Party

Named Inventors: FRANCOIS BRUGGER, Waltenheim, France
ANGELIKA STAMPF, Rixheim, France

Involved Application: 10/424,633, filed 28 April 2003

Title: Aerosol container and a method for storage and
administration of a pre-determined amount of a
pharmaceutically active aerosol

Assignee: Novartis Corporation

The senior party is assigned exhibit numbers 1001-1999. The junior party is assigned
exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO & 154.2.1. The senior party is responsible for
initiating settlement discussions. SO & 126.1.

Part F. Count and claims of the parties

Count 1

Ashurst 6,532,955 claim 1

or

Brugger 10/424,633 claim 9

1 The claims of the parties are:

2 Ashurst '955 claims: 1-26

3 Ashurst '928 claims: 1-27

4 Ashurst '653 claims: 1-24

5 Ashurst '652 claims: 1-25

6
7 Brugger: 1-19

8 The claims of the parties which correspond to Count 1 are:

9 Ashurst '955 claims: 1 and 15-26

10 Ashurst '928 claims: 1 and 15-27

11 Ashurst '653 claims: 1-24

12 Ashurst '652 claims: 1-20, 22, 24 and 25

13
14 Brugger: 1-19

15 The claims of the parties which do not correspond to Count 1, and therefore are not
16 involved in the interference, are:

17 Ashurst '955 claims: 2-14

18 Ashurst '928 claims: 2-14

19 Ashurst '653 claims: none

20 Ashurst '652 claims: 21 and 23

21
22 Brugger: none

23 The parties are accorded the following benefit for Count 1:

24 Ashurst: 08/829,562, filed 31 March 1997, now patent 6,253,762,
25 granted 3 July 2001

26
27 08/831,268, filed 31 March 1997, now patent 6,131,566,
28 granted 17 October 2000

29
30 08/945,141, filed 14 October 1997, now patent 6,149,892
31 granted 21 November 2000

32
33 PCT/US96/05009, filed 11 April 1996

Brugger: 08/288,415, filed 10 August 1994, now patent 6,596,260,
granted 22 July 2003

Part G. Heading to be used on papers

The following heading must be used on all papers filed in this interference, see SO
& 106.1.1:

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(Application 10/424,633).

Patent Interference No. 105,482 (SCM)

(Technology Center 1600)

Part H. Order form for requesting file copies

When requesting copies of files, use of SO Form 4 will greatly expedite processing of the
request. Please attach a copy of Parts E and F of this DECLARATION with a hand-drawn circle
around the patents and applications for which a copy of a file wrapper is requested.

/Sally C. Medley/
Administrative Patent Judge

1 Enc:
2 Copy of STANDING ORDER
3
4 Copy U.S. Patent 6,511,633
5 Copy U.S. Patent 6,511,652
6 Copy U.S. Patent 6,546,928
7 Copy U.S. Patent 6,532,955
8 Copy of claims of 10/424,633
9
10 Revised 3 January 2006
11
12
13 cc (via overnight delivery):
14
15 Attorney for Ashurst:
16
17 GlaxoSmithKline
18 US Intellectual Property Dept.
19 Five Moore Drive
20 Research Triangle Park, NC 27709-3398
21
22 Tel: 919-483-2370
23
24 Attorney for Brugger:
25
26 Novartis
27 Corporate Intellectual Property
28 One Health Plaza 104/3
29 East Hanover, NJ 07936-1080
30
31 Tel: 862-778-7906